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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,108	06/02/2000	Neil A Willcocks	2280.2620	6805
5514	7590	03/24/2004		
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
			EXAMINER PHAM, THIERRY L	
			ART UNIT 2624	PAPER NUMBER 9

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/587,108

Applicant(s)

WILLCOCKS ET AL.

Examiner

Thierry L Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 31-65 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5-6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II in Paper No. 7 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 31-33, 37-39, 43-44, 48-50, 54-56, 60-62 are rejected under 35 U.S.C. 102(e) as being anticipated by Spurgeon et al (U.S. 2002/0008751).

Regarding claim 31, Spurgeon discloses a system (fig. 1) for enabling a user to submit an image to be printed on an edible, comprising: a first computer (computer system, fig. 1, par. 13, page 1) adapted to receive image data from the user and communicate the image data over a network (LAN, WAN, MAN, Intranet and/or Internet, par. 19, page 2); a second computer (plurality of computers can be communicate over the network such as LAN, WAN, MAN, Intranet and/or Internet, pars. 13 and 19, pages 1-2) adapted to communicate with the first computer, the second computer being adapted to receive the transmitted image data over the network; and an ink-jet printer (edible printer, fig. 1) adapted to receive the image data from the second computer (images can be download and/or retrieve via the network to the printer, pars. 13 and 19, pages 1-2) and print on the edible a high quality image that corresponds to the received image data.

Regarding claim 32, Spurgeon further discloses a system according to Claim 31, wherein the network is the Internet (Internet network, par. 19, page 2) and the first computer is a client

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computer operable to run Web browser software adapted to send and receive Hypertext Markup Language (HTML) forms over the World Wide Web (download images via Internet Web Site, par. 19, page 2).

Regarding claim 33, Spurgeon further discloses a system according to Claim 31, wherein the network is a local area network (LAN, WAN, MAN, par. 19, page 2).

Regarding claims 37-39: Claims 37-39 are the method claims corresponding to the apparatus claims 31-33 (respectively). The methods are inherent and included by the operation of the apparatus. Please see claims rejection basis/rationale as described in claims 31-33 above.

Regarding claims 43-44, please see rejection rationale/basis as described in claims 31-33 above.

Regarding claims 48-50, please see rejection rationale/basis as described in claims 31-33 above.

Regarding claims 54-56: Claims 54-56 are the method claims corresponding to the apparatus claims 31-33 (respectively). The methods are inherent and included by the operation of the apparatus. Please see claims rejection basis/rationale as described in claims 31-33 above.

Regarding claims 60-62: Claims 60-62 corresponds to claims 31-33 except computer readable memory medium for storing program is claimed rather than printing system or data output apparatus. All computers have some type of computer readable memory medium (floppy disk, Zip drives, par. 13, page 2) for storing computer programs, hence claims 60-62 would be rejected using the same rationale as in claims 31-33.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 34-36, 40-42, 45-47, 51-53, 57-59, and 63-65 rejected under 35 U.S.C. 103(a) as being unpatentable over Spurgeon as described in claims 31, 37, 43, 48, 54, and/or 60 above, and in view of Young (U.S. 6058843).

Regarding claim 34, Spurgeon does not explicitly disclose wherein a print image having resolution greater than 200 dpi even if printed using a single printhead and a single pass printing.

Young, in the same field of endeavor for edible printer, discloses a print image having resolution greater than 200 dpi (360 dpi, col. 2, lines 30-36) even if printed using a single printhead and a single pass printing.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Spurgeon as per teachings of Young because of a following reason: (1) to provide high quality printed edible images (Spurgeon, par. 12, page 1).

Therefore, it would have been obvious to combine Spurgeon with Young to obtain the invention as specified in claim 34.

Regarding claim 35, Spurgeon further discloses ink-jet printer (par. 17, page 2) is a drop-on-demand ink-jet printer (par. 10, page 1).

Regarding claim 36, Young further discloses wherein the printed image has a resolution between 300 and 1200 dpi (360 dpi, col. 2, lines 30-36).

Regarding claims 40-42: Claims 40-42 are the method claims corresponding to the apparatus claims 34-36 (respectively). The methods are included by the operation of the apparatus. Please see claims rejection basis/rationale as described in claims 34-36 above.

Regarding claims 45-47, please see rejection rationale/basis as described in claims 34-36 above.

Regarding claims 51-53, please see rejection rationale/basis as described in claims 34-36 above.

Regarding claims 57-59: Claims 57-59 are the method claims corresponding to the apparatus claims 34-36 (respectively). The methods are included by the operation of the apparatus. Please see claims rejection basis/rationale as described in claims 34-36 above.

Regarding claims 63-65: Claims 63-65 corresponds to claims 34-36 except computer readable memory medium for storing program is claimed rather than printing system or data output apparatus. All computers have some type of computer readable memory medium (floppy disk, Zip drives, Spurgeon, par. 13, page 2) for storing computer programs, hence claims 63-65 would be rejected using the same rationale as in claims 34-36.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thierry L Pham whose telephone number is (703) 305-1897. The examiner can normally be reached on M-F (9:30 AM - 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K Moore can be reached on (703)308-7452. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thierry L. Pham
March 9, 2004


GABRIEL GARCIA
PRIMARY EXAMINER